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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

10 U.S. Ethernet Innovations, LLC,

NO. C 10-03724 JW

11 v. Plaintiff,

NO. C 10-05254 JW

12 Acer, Inc., et al.,

**ORDER FOLLOWING TUTORIAL  
HEARING; ORDER RELATING CASES  
FOR CLAIM CONSTRUCTION  
PURPOSES**

14 AT&T, Inc., et al.,

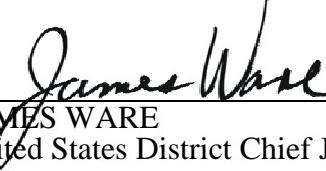
15 Defendants.

17 On February 25, 2011, the Court conducted a tutorial of the patents-in-suit. In light of the  
18 parties' presentations at the tutorial and the discussion at the conference, the Court ORDERS as  
19 follows:

- 20 (1) Upon review and consideration of the technology involved and the nature of the  
21 dispute, the Court finds a single Markman to construe all the disputed claims would  
22 be more efficient than any bifurcation at this time. Thus, the Court will conduct a  
23 claim construction hearing and issue a Claim Construction Order that will serve as  
24 the law of the case prior to bifurcation.
- 25 (2) Once the Claim Construction is issued, the Court will invite cross-briefing from the  
26 parties to address the issues identified at the tutorial, namely, remedy exhaustion and  
27 direct versus indirect infringement of the patents-in-suit and any other additional  
28 issues the Court may identify following the claim construction hearing;

- 1                     (3) Although it is the Court's practice to not relate cases that are already assigned to it,  
2 the Court orders that C 10-5254 JW be related to C 10-3724 for the purposes of claim  
3 construction coordination. The Court lifts the stay imposed in C 10-5254 JW so that  
4 the parties in the AT&T can meet and confer with the Defendants in the Acer case  
5 and participate in the claim construction process.
- 6                     (4) On **March 28, 2011 at 10 a.m.**, the Court will conduct an Initial Case Management  
7 Conference.
- 8                     (5) On or before **March 18, 2011**, the parties shall meet and confer and submit a Joint  
9 Statement and Proposed Schedule in accordance with Patent L.R. 2-1. Specifically,  
10 the parties shall address the timing and structure of the claim construction briefing  
11 and presentation. In particular, the Court is concerned with which Defendants will  
12 take an active role in the claim construction process. Defendants shall meet and  
13 confer and if feasible, designate lead attorneys who will represent the interests of all  
14 Defendants at the Markman.

15  
16 Dated: March 7, 2011

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18 JAMES WARE  
United States District Chief Judge

**United States District Court**

For the Northern District of California

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17 **Dated: March 7, 2011**

**Richard W. Wieking, Clerk**

19 By: /s/ JW Chambers  
20 Elizabeth Garcia  
Courtroom Deputy

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